

## **922 KAR 6:010. Standards for community action agencies.**

RELATES TO: KRS 45.357, 45A.455, 61.800-61.850, 61.870-884, 194A.060, 273.405-273.453, Chapter 344, 45 C.F.R. 96, 42 U.S.C. 9901-9926

STATUTORY AUTHORITY: KRS 194A.050(1), 273.448(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 273.448(1)(a) requires the state administering agency to establish in accordance with applicable state and federal laws and regulations, standards for community action agencies by which the administrative, fiscal and programmatic effectiveness of the federal act shall be measured. This administrative regulation establishes the requirements for the operation and oversight of the community action agencies relative to the community services block grant funding, intended to provide services for residents meeting poverty income guidelines issued by the U.S. Department of Health and Human Services. This administrative regulation imposes a stricter requirement than the federal mandate because additional reporting requirements are necessary to comply with KRS 45.357, and the Kentucky Civil Rights Laws, KRS Chapter 344, are more inclusive than those required under 42 U.S.C. 9918(c)(1). The imposition of additional requirements and responsibilities is to ensure necessary compliance with applicable state laws.

Section 1. Definitions. (1) "Commissioner" means the Commissioner for the Department for Community Based Services, Cabinet for Health and Family Services.

(2) "Community action agency" is defined by KRS 273.410(2).

(3) "Community action board" means the board of directors of a community action agency which is a political subdivision.

(4) "Community Services Block Grant" or "CSBG" means Community Services Block Grant funds made available by 42 U.S.C. 9901-9926.

(5) "Designating official" means the chief elected official of the eligible political subdivision or subdivisions if the political subdivision is a community action agency.

(6) "Governing board" means the board of directors of a private nonprofit community action agency.

(7) "Public community action agency" means a community action agency that is established as a division of local government.

Section 2. Board of Directors. (1) Each community action agency shall establish and maintain a board of directors in accordance with KRS 273.437 and 273.439.

(2) Governing boards and community action boards shall adopt written bylaws. The bylaws shall include:

- (a) The purpose of a community action agency;
- (b) Duties and responsibilities of the board;
- (c) Number of members on the board;
- (d) Qualifications for a board membership;
- (e) The types of membership;
- (f) The method of selecting a member;
- (g) Terms of a member;
- (h) Officers and duties;
- (i) Method of electing an officer and chairperson;
- (j) A standing committee, if applicable;

- (k) Provision for approval of programs and budgets;
- (l) The frequency of board meetings and attendance requirements; and
- (m) Provision for official record of meetings and action taken.
- (3) The boards and designating officials:
  - (a) May delegate the responsibility to carry out a program of a community action agency and fiscal requirements to an executive director; and
  - (b) Shall not delegate final approval, responsibility, accountability, or direction of policy, except for a public community action agency.

Section 3. Board Meetings. (1) A board meeting shall be open to the public in accordance with KRS 61.800-61.850.

- (2) A simple majority shall constitute a quorum for a board meeting.
- (3)(a) A meeting of a governing board or a community action board shall be recorded.
- (b) Minutes shall be made of the meeting.
- (c) The minutes shall include:
  - 1. Date, time, and place of meeting;
  - 2. Names of members attending;
  - 3. Topics discussed, problems, recommendations made or presented, and a plan for change and improvements;
  - 4. Decisions reached and actions taken;
  - 5. An executive director's report and other reports as are presented; and
  - 6. Recommendations made by the community action board to designating officials of the eligible political subdivision.
- (d) The minutes shall be:
  - 1. Approved by the board of directors and signed by the appropriate officer; and
  - 2. Copied and distributed to each board member, the executive director, and the department within thirty (30) days of the minutes' approval in accordance with subparagraph 1 of this paragraph.

Section 4. Administration. (1) A community action agency shall meet the federal assurances and reporting requirements in accordance with 42 U.S.C. 9901-9926 and 45 C.F.R. 96.

(2) A community action agency shall adopt the organizational standards for eligible entities pursuant to the Community Services Block Grant Information Memorandum, Transmittal No. 138 from the U.S. Department of Health and Human Services, dated January 26, 2015.

(3) A community action agency in accordance with KRS 273.441 and 273.443, and with the knowledge and concurrence of appropriate officials and boards as required in KRS 273.437 and 273.439, shall:

- (a) Submit necessary reports, records, or other information to:
  - 1. Determine fiscal, administrative, and programmatic effectiveness in utilization of CSBG funds; and
  - 2. Fulfill requirements of KRS 45.357;
- (b) Except for a public community action agency, develop written personnel policies including:
  - 1. A job classification plan with the provision of a systematic arrangement of job positions in the agency indicating title, related duties, and responsibilities for each position. For those positions which are sufficiently similar as to the duties performed and to the scope of responsibility, equal pay ranges shall be:
    - a. Allocated to the same job classification; and
    - b. Reviewed at least every four (4) years;

2. A job specification for each job classification, including required education, experience, training, skills and other qualifications required which shall be reviewed at least every four (4) years;

3. A compensation plan with the provision of a pay plan for community action agency employees outlining pay grades or salary rates, salary adjustments, salary advancements, and overtime adjustments as appropriate for the job classifications. Rates of pay shall be:

- a. Consistent with the functions outlined in the job classification plan; and
- b. Reviewed at least every four (4) years;

4. Attendance and leave policies that shall:

- a. Be reviewed at least every four (4) years; and
- b. Include the accumulation and credit of:

- (i) Annual leave;
- (ii) Sick leave;
- (iii) Compensatory or overtime leave;
- (iv) Military leave;
- (v) Leave related to the birth or adoption of a child;
- (vi) Court leave;
- (vii) Voting leave;
- (viii) Absence without leave; and
- (ix) Other conditions of specific leave;

5. A fringe benefit plan that shall:

- a. Be reviewed every four (4) years; and
- b. Include the coverage and conditions of those items provided by the community action agency, such as:

- (i) Basic salary or wage rates including hospitalization insurance;
- (ii) Dental insurance;
- (iii) Holidays;
- (iv) Disability leave;
- (v) Personal leave;
- (vi) Retirement or pension; and
- (vii) Deferred compensation;

6. An affirmative action plan with a policy statement that the community action agency's intention is to give equal opportunity in hiring, advancement opportunities, and in work assignments in accordance with KRS Chapter 344;

7. A personnel grievance procedure that shall:

- a. Include a plan for resolving employee grievances and complaints; and
- b. Describe the method that the community action agency follows if an employee is dissatisfied with some aspect of the employee's working conditions. The procedure shall outline:

- (i) How the employee files a complaint;
- (ii) Who reviews the complaint;
- (iii) Who hears the complaint;
- (iv) Who may attend a hearing;
- (v) Length of time for the hearing decision; and
- (vi) The next level of appeal, if the employee is still dissatisfied with the hearing results; and

8. Hiring and firing practices, with a plan for:

- a. Hiring an employee;
- b. Promotions;
- c. Demotions;
- d. Job postings and advertisements;

- e. Resignations;
- f. Layoff procedures;
- g. Disciplinary actions; and
- h. Dismissal procedures;

(c) Make available a copy of the community action agency's personnel policies to staff;

(d) Ensure that there is no discrimination against an applicant or recipient of CSBG services in accordance with KRS 344.015(2), 344.020, and 42 U.S.C. 9918(c)(1);

(e) Be responsible for compliance with conditions of contracts and grants, appropriate state and federal laws, administrative regulations, and cost principles;

(f) Indemnify the cabinet against a claim, including attorney fees and other costs of litigation which may result from damage caused by the community action agency's employee, negligent acts, or omissions of the community action agency's agent, employee, or subcontractor;

(g) Ensure that a notice, information pamphlet, research report, and similar public notice prepared and released by the community action agency pursuant to its contract for CSBG funds shall include the statement: "This project is funded, in part, under a contract with the Cabinet for Health and Family Services with funds from the Community Services Block Grant Act of the U.S. Department of Health and Human Services"; and

(h) Ensure that no employee or representative of the community action agency with procurement authority shall participate either directly or indirectly in an activity that is in conflict with the provisions of KRS 45A.455 and 42 U.S.C. 9918.

(4)(a) Except for a public community action agency, a community action agency with the knowledge and concurrence of appropriate officials and boards, shall:

1. Develop written fiscal policies and a manual; and
2. Review and update the policies and the manual at least annually.

(b) Fiscal records shall be maintained in accordance with generally acceptable accounting procedures and practices and in conformity with 42 U.S.C. 9916(a).

(c) A current written financial report shall be presented to a board of directors:

1. At least quarterly; or
2. More frequently, if requested by the board or the cabinet.

(5)(a) A community action agency shall:

1. Develop written programmatic operation policies and a manual; and
2. Review and update the policies and the manual at least annually.

(b) A community action agency's program manual, which may be characterized as an operations manual, shall include:

1. Criteria for determining eligibility of an individual for CSBG programs;
2. The intake process including information needed to approve an applicant;
3. Procedures for accepting a referral from another agency;
4. Instructions for records to be kept on applicants, clients, and statistical data on intake;
5. Procedures for reports to be made to the cabinet and frequency;
6. Procedures to be followed if an applicant is found ineligible;
7. Complaint procedures;
8. A description of each program's organizational structure, major lines of authority, and areas of responsibility within the CSBG programs; and
9. Procedures for documenting the extent of participation of individuals who are low income in the community action agency's CSBG programs.

(6)(a) A community action agency shall ensure that a client dissatisfied with services rendered under a CSBG contract shall be provided an opportunity to file a formal complaint and to be heard at the local level.

(b) A client may attempt to resolve the issue by submitting a written complaint to the com-

munity action agency within thirty (30) calendar days after the date of the community action agency's action or alleged act.

(c) The community action agency shall provide the client a written response to the complaint within thirty (30) calendar days of receipt of the client's complaint in accordance with paragraph (b) of this subsection.

(d) If extenuating circumstances concerning the client's case prolong review of the complaint, the executive director of the community action agency may grant an extension to the response timeframe given in paragraph (c) of this subsection.

(e)1. A client dissatisfied with a final written decision rendered by the community action agency in response to a complaint may request that the commissioner review the complaint and the community action agency's response.

2. A request for review shall be submitted to the commissioner within ten (10) days of the receipt of the community action agency's response.

3. Upon completion of the review, the commissioner or designee shall render a written order regarding the complaint within thirty (30) days unless:

a. Extenuating circumstances prolong the review of the complaint; and

b. The commissioner or designee notifies the client of the need for an extension to the timeframe specified in this subparagraph.

4. The community action agency shall abide by the order.

(f) The complaint and hearing procedures shall be posted in each agency office.

(7) A community action agency shall ensure the design, implementation, and documentation of in-service training program for staff. Additional training shall also be documented for staff.

Section 5. Income Eligibility, Validation, and Determination. (1) To be eligible to participate in services and programs funded with CSBG funds, an individual's or family's income shall be at or below 125 percent of the current poverty level issued each year by the United States Department of Health and Human Services and published in the Federal Register.

(2) Information and referral services shall be provided to an individual or family without regard to income.

(3) If screening for programs where the eligibility factor is higher, the factor for that other program applies.

(4) The individual or family head shall sign a document attesting to the amount of declared income and eligibility to receive services.

(5) A community action agency or its worker shall require that a client produce proof of income eligibility in which a dated copy of the client's documentation shall be placed in the client's file.

(6) Initial eligibility shall be:

(a) Determined within thirty (30) days of application;

(b) Redetermined if there is a change in circumstance; and

(c) Redetermined at least annually, if there is not a change in circumstance.

Section 6. Maintenance of Case Records. (1) A log shall be maintained by a community action agency on a referral made by an outside agency or individual including:

(a) Date of referral;

(b) A referring agent; and

(c) Reason for referral and disposition.

(2) A CSBG case record shall be maintained on each applicant accepted for a service or benefit.

(a) The record shall include:

1. Intake information as follows:
    - a. Name, address, and telephone number of the applicant;
    - b. Birthdate;
    - c. Sex;
    - d. Race or ethnic origin;
    - e. Proof of income;
    - f. Level of education completed;
    - g. A presenting problem;
    - h. Date of presenting problem;
    - i. Staff member gathering information;
    - j. Referral agent, if applicable;
    - k. Approval or disapproval for services or benefits and date; and
    - l. The signature of the person making the determination or the referral;
  2. Client progress toward a documented goal during a service or benefit period;
  3. Chronological recording of supervisory and staff contacts with a client during the service or benefit period;
  4. Copies of correspondence and other pertinent information;
  5. Redetermination of eligibility, if required by Section 5(6) of this administrative regulation; and
  6. Information regarding any termination of services and benefits.
- (b) A community action agency shall ensure that a client case record is maintained in conformity with existing laws pertaining to confidentiality in accordance with KRS 194A.060.
- (c) The records shall be maintained in a location which is secure and convenient to service delivery staff.
- (3) A community action agency shall ensure development and implementation of a written client case record retention and disposal schedule.
- (4) A public community action agency or any program or subdivision of a community action agency meeting the definition of a public agency as defined in KRS 61.870(1) shall comply with the open records law, KRS 61.870-61.884.

**Section 7. Monitoring and Evaluation Reports.** A community action agency in accordance with 42 U.S.C. 9914, Community Services Block Grant Information Memorandum, Transmittal No. 138 from the U.S. Department of Health and Human Services, KRS 273.441, 273.443, and 273.448(1), and with the knowledge and concurrence of appropriate officials and boards as required in KRS 273.437 and 273.439, shall meet the following:

- (1) Ensure the development of a data collection and recordkeeping system that allows for administrative, programmatic, and fiscal monitoring and evaluation;
- (2) Ensure the design and implementation of program reviews and studies to determine under or over utilization of each program, and progress towards goals and objectives; and
- (3) Permit monitoring, review, and evaluation of the total community action agency operation by the department or its designee.

**Section 8. Matching Requirement.** A contractor receiving CSBG funds pursuant to 922 KAR 3:040 shall provide a twenty (20) percent local match in accordance with KRS 273.446(3).

**Section 9. CSBG Program State Plan.** A copy of the state's CSBG program plan may be obtained by submitting a written request to the Commissioner of the Department for Community Based Services, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621.

Section 10. Incorporation by Reference. (1) "Community Services Block Grant Information Memorandum, Transmittal No. 138 from the U.S. Department of Health and Human Services", January 26, 2015, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (9 Ky.R. 1274; eff. 6-1-1983; Am. 16 Ky.R. 248; 547; eff. 9-20-1989; 20 Ky.R. 2449; eff. 3-23-1994; Recodified from 905 KAR 6:010, 10-30-1998; 29 Ky.R. 2817; eff. 7-16-2003; TAm eff 10-29-2004; TAm eff. 8-1-2005; 36 Ky.R. 937; 1496; eff. 2-5-2010; 43 Ky.R. 1108, 1386; eff. 3-3-2017.)